

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.591 of 2018

Arising Out of PS.Case No. -207 Year- 2017 Thana -GOPALPUR District- BHAGALPUR

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1. Sahim Ali @ Md. Sahim Ali son of Sastan Ali
 2. Md. Farmud Alam @ Md. Farmud, son of Md. Yushuf, both resident of Village Miyan Toli, Gopalpur, P.S. Gopalpur, District Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha

For the Opposite Party/s : Mr. Bharat Bhushan

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 07-02-2018 Heard the learned counsel for the petitioners and learned counsel for the State.

The petitioners seek anticipatory bail in connection with Gopalpur PS case no. 207 of 2017 dated 8.9.2017 registered for the offences punishable under Sections 341, 323, 406, 419, 420, 468, 471, 504/34 of the Indian Penal Code.

The case of the complainant as per the complaint petition dated 1.6.2017 is that the complainant had decided to sell his land to the petitioners herein for a sum of Rs. 22,08,000/- and out of the said amount a sum of Rs.12,57,000/- was paid and the petitioners had promised to pay the balance amount of Rs. 9,51,000/- at the time of execution of the sale deed. Thereafter, the sale deed is said to have been executed on 19.6.2015 wherein it was admitted between the parties that rest amount of consideration money will



be paid within six months. It is further alleged that according to the complainant, a balance sum of Rs. 8,00,000/- was due since Rs. 1,50,000/- was paid on 13.11.2015 in cash. The petitioners are said to have further paid Rs. 8,00,000/- and Rs. 2,00,000/ respectively through two cheques dated 21.06.2015. The cheques for a sum of Rs. 8,00,000/- and Rs. 2,00,000/- are said to have been credited in the account of the complainant on 23.06.2015. According to the complainant, the petitioners have failed to pay Rs.8,01,000/-.

The learned counsel for the petitioners submits that at best the present case can be said to be a case of civil dispute and the proper remedy for the complainant is to approach the competent court of civil jurisdiction and, in fact, the complainant has already filed a Title Suit for cancellation of the sale deed bearing Title Suit No. 113 of 2017 before the learned court of Sub-Judge-3rd, Naugachia. It is further submitted that entire payment has been made by the petitioners herein and the present case has been filed with an oblique motive only to extract more money.

Per contra, the learned counsel for the complainant submits that the petitioners have made a written agreement on 19.6.2015 to the extent that they will pay the balance amount of Rs. 9,51,000/- within six months i.e. by 19.12.2015. It is further submitted that the present case is a case of committing fraud and the petitioners



do not deserve the privilege of anticipatory bail.

Having regard to the facts and circumstances of the case, and the fact that the complainant has already filed a Title suit regarding cancellation of the sale deed and also the fact that the amount disclosed in the complaint to be outstanding and the one disclosed in the agreement dated 19.6.2015 are at variance, I do not find any reason not to grant anticipatory bail to the petitioners herein.

Accordingly, in the event of arrest or surrender before the concerned court within a period of six weeks from the date of receipt/production of a copy of the present order, the petitioners above named are directed to be released on anticipatory bail on furnishing bonds of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. 1st, Naugachia in connection with Gopalpur PS case no. 207 of 2017, subject to the conditions laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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